

d.) **Remarks**

Claims 1, 2 and 4 have been amended. Support for the amendment to claim 1 can be found, for example, in the specification on page 3, at lines 9 to 11. The amendment to claim 2 is to correct a typographical error and the amendment to claim 4 removes an improper multiple dependency. Accordingly, no new matter has been added and claims 1-5 are currently pending.

**Remarks Regarding 35 U.S.C. § 103(a)**

Claim 1-5 stand rejected, under 35 U.S.C. § 103(a), over Ayabe, alone, and alternatively over JP 06197650 (the '650 reference) in view of Ayabe. Applicant respectfully traverses these rejection and, for at least the following reasons, these rejections should be withdrawn.

Claim 1 has been amended to recite that foliage leaf base of a plant that is infected with a virus is cultured. Neither Ayabe nor the '650 reference teach, disclose, or suggest culturing the foliage leaf base of a plant that is infected with a virus to form a domy tissue that is then isolated and cultured to form a virus-free plant. The '650 reference merely teaches to culture *Allium Sativum* plants from a leaf base explant in a hormone-free medium, to create a virus-free plant. As well, to form a virus-free plant, Ayabe teaches culturing *Allium Sativum* plants from a stem disc explant that forms a dome-shaped tissue in the absence of plant hormones.

Further, neither reference discloses or suggests that a previously virus-infected plant be used as the starting material for the culture, other than for use with the shoot-tip culture method. Ayabe, in the introduction, notes that the use of virus-free plantlets has been tried, but clearly discourages the use of such a material, due to the commercial infeasibility resulting from the very low propagation rate of virus-free plantlets. Ayabe states that it "is a laborious, time-consuming process" and is inherently defective as a practical method. One of ordinary skill in the art would therefore be dissuaded by Ayabe from attempting to culture the foliage leaf base of a grown plant

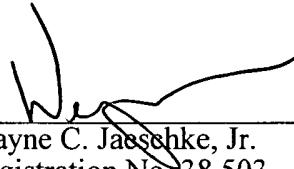
that is infected with a virus to form a domy tissue that is then isolated and cultured to form a virus-free plant. Thus, the two rejections of claims 1-5 over Ayabe and over '650 reference in view of Ayabe are overcome and should both be withdrawn.

### Conclusion

The application is in condition for allowance and the prompt issuance of a Notice of Allowance is respectfully requested. If it is later determined that an additional extension of time, not otherwise accounted for herein, is necessary, applicant respectfully requests that extension and it is requested that any and all fees due in connection with the filing of this Amendment be charged to **Deposit Account No. 03-1952** referencing Attorney Docket No. 350292001100.

Respectfully submitted,  
MORRISON & FOERSTER LLP

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